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CONSERVATION COMMISSION
LOWELL, MASSACHUSETTS
June 24, 2020

Note: These minutes are not completed verbatim. For further detail, video recordings are available at the Pollard Library, second floor reference desk or online at www.LTC.org.

Due to the COVID-19 pandemic, this meeting was held virtually using GoToMeeting.

Members Present: Chairwoman Varnum, Commissioner Dillon, Commissioner Buitenhuis, Commissioner Downs, and Commissioner Standish

Members Absent: Commissioner Lovely

Others Present: Fran Cigliano, Associate Planner

CALL TO ORDER

7:02 PM

Notice of Intent

Kyle Burchard c/o Columbia Care, Inc.
39 Main Street, Suite 301
Ayer, MA 01432
DEP #206-0799

Project Location: 170 Lincoln Street 01852

A Notice of Intent has been filed by GPR, Inc. on behalf of Columbia Care, Inc. to expand an existing marijuana cultivation facility at 170 Lincoln St., 156 Lincoln St., 17.1 Tanner St., & 159 Tanner St. The project site is within the 100-ft. riverfront area of River Meadow Brook.

On Behalf:

None

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

L. Varnum: The applicant is looking to expand the existing marijuana cultivation facility. Asked for a continuance to July 8.

Motion:

B. Buitenhuys motioned and P. Downs seconded the motion to continue the petition to the July 8, 2020 meeting. The motion passed unanimously, (5-0).

Notice of Intent

Bree Sullivan c/o PURE Lowell, Inc.

Bayside Engineering, Inc.

600 Unicorn Park Dr.

Woburn, Ma 01801

DEP #206-0798

Project Location: 671-683 Rogers Street 01852

A Notice of Intent (NOI) has been filed by Bree Sullivan on behalf of PURE Lowell, Inc. to demolish two existing residential structures and construct a 3,700 sq. ft. retail marijuana facility and 40-space parking lot. Wetland resource areas on the site include Bordering Vegetated Wetlands (BVW) and Bordering Land Subject to Flooding (BLSF).

On Behalf:

Bree Sullivan, Bayside Engineering

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

L. Varnum: We wanted the limit of work listed on the plan, which they have done. We had talked about a planting plan or perhaps replacing trees that were in the area of work that were going to be cut. I don't believe we've received that plan. We have received a plan for the parking lot and drainage area.

B. Sullivan: There was a resubmitted plan. There were some small updates to the plan. I assume the Commission received that. One of the sheets in that set is the landscaping plan set. That has the most changes to it. That would be sheet 6. Date on those plans should be June 17.

L. Varnum: We had talked about replacement plants in the turf area that we weren't going to be using after construction.

B. Sullivan: This area here is all new. Wetland seed mix there. A few shrubs, a red maple tree. A few other plantings. Beyond this dotted line, from here to the bottom of the sheet is going to remain. Going to be natural vegetation.

W. Standish: I was thinking of more plantings in the southeast corner. That was the idea. Not sure of the topography of that area.

L. Varnum: I don't think we have a count of trees that are coming down.

B. Sullivan: There's at least probably 3-4 decent size trees, greater than 12 inches DBH. The rest of it is smaller stuff.

W. Standish: Trees or shrubs – a combination would be good for that type of ecosystem. These are mature trees we are taking down. The limit of work goes pretty far into the buffer zone. Not sure we would want to increase

the limit of work to plant trees, we would want to keep them where its grass only. Would be helpful to have a count of trees. Seems like cutting trees in the buffer zone is being overlooked on the plan set.

K. Dillon: I agree with WS. I thought we had decided we were having a plant for plant tree for the tree plan. Even if you get rid of maples there, it's more about closer to the wetland having tree for tree replacement.

W. Standish: Maybe we could get a count of every tree over 8 inches that will be cut. If we knew what we were taking down it would be easier. Those are my thoughts.

B. Sullivan: 2-3 inch caliper tree, inch for inch?

B. Buitenhuys: I think that would be reasonable. Over 8 feet tall.

L. Varnum: Two shrubs per tree. If you have a chance to do some thought about how to arrange these, so it's not only good for wetland, but also pleasing to the eye, it would be a good backdrop to the project.

B. Sullivan: I think it makes sense to have a mix. Has both upland and wetland species, facultative species to fill in. The intent is to have it return to its natural state. I agree we should get more plantings in here.

W. Standish: I think a serious count of what's coming down would help.

B. Sullivan: Everything over 8 inch DBH we will count.

B. Buitenhuys: 4 trees and bushes in between - doesn't look like you can fit much more than that. Would still like to know how many are coming down.

L. Varnum: You don't want to overplant and have to take them down. Made a note about stormwater comments from DPD – not sure we addressed this at the last hearing. Asking for statement confirming that owners agree to follow the Operations and Maintenance plan post-construction. I think we can have the landscape proposal submitted if we want to close the hearing tonight. Can make one of the conditions.

B. Sullivan: We did submit that confirmation to staff.

Motion

K. Dillon motioned and P. Downs seconded the motion to close the hearing. The motion passed unanimously, (4-0). B. Buitenhuys abstained from the vote.

W. Standish motioned and K. Dillon seconded the motion to issue an Order of Conditions with the following condition:

- 1) The applicant shall submit a landscaping planting plan to be approved by the Conservation Commission.

The motion passed unanimously, (4-0). B. Buitenhuys abstained from the vote.

Enforcement Order

Leonel Galvez
5 Billings Street
Lowell, MA 01852

Violation Location: 5 Billings Street 01850

Dumping and storing mulch within bordering vegetated wetlands and the 100-ft buffer zone to the bordering vegetated wetlands.

On Behalf:

None

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

L. Varnum: Mr. Galvez attended our last meeting. He said he had found a contractor to remove the mulch. I stopped by the property a couple days ago and most of the mulch had been removed. Still a little work to be done. Mr. Galvez has called the office and expressed he has someone lined up to do the last of the work. The final work would likely be hand raking. Different type of activity. A little more work to be done. Mulch could come out and then we could talk about leveling the soil on the site. Don't need a motion but will keep on the agenda until the next meeting. Hopefully by that point we will be ready to rescind it.

Motion

None

NEW BUSINESS

Request for Determination of Applicability

Dan McNamara
150 Rea Street
Lowell, MA 01852

Project Location: 150 Rea Street 01852

A Request for Determination of Applicability has been filed by Dan McNamara to remove an existing deck and construct a new deck within the 100-year flood plain at 150 Rea Street.

On Behalf:

Dan McNamara, the Applicant

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

L. Varnum: The new deck is going to be raised a bit. Will have less of an impact on the flood area in that it will only be the supports taking up space in the flood plain.

D. McNamara: It's just going to be a small deck. 4' x 16'. Small landing. Will have less of an effect than the ground level deck. Not going to hit any plantings. Should be low impact.

L. Varnum: What are you going to do with the remains?

D. McNamara: They will be removed from the site.

P. Downs: Sounds fine to me. It's a smaller deck than the one he is taking down.

K. Dillon: Looks good to me.

B. Buitenhuis: What is your timeline?

D. McNamara: We would like to start construction immediately.

Motion

B. Buitenhuis motioned and K. Dillon seconded the motion to issue a Negative III determination. The motion passed unanimously, (5-0).

Request for Determination of Applicability

Kristina Lopez
23 Forest Park Lane
Lowell, MA 01854

Project Location: 23 Forest Park Lane 01854

A Request for Determination of Applicability has been filed by Kristina Lopez to install a generator, 10 ft. x 10 ft. shed, and reconstruct an existing deck within the 100-ft. buffer to the wetlands at 23 Forest Park Lane.

On Behalf:

Kristina Lopez, the Applicant

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

L. Varnum: This is a house that is right next to a wetland area in Pawtucketville. I know some time in the not-too-distant past, it has experienced flooding from that wetland.

K. Lopez: The previous owner had flooding in the basement. We just refinished the basement and want to make sure we can protect it. We don't want the pump in the basement to go and lose the basement, so that's why we are installing the generator. Now that we have the finished basement, all of our yard tools have no home. We would like to put a shed in the back on the other side of the property to store our yard tools. Our screened-in porch, we just want to rebuild and reconfigure it.

L. Varnum: I did see your drawing. Trying to keep all three on opposite side of wetland.

K. Lopez: We've already put the generator there, it's just not installed. Located exactly where it is drawn.

L. Varnum: The shed is also going to be 10-ft. off the lot line, away from the wetland. I know that's a sensitive lot. It's really a distinct wetland line, looks like it could flood tomorrow. Keeping away from the wetland is what you needed to do. I don't see how you could have done it any differently. If the wetland floods three feet, your property definitely would be affected.

B. Buitenhuis: No tree removal required to install the shed?

K. Lopez: No. The shed will be up on blocks.

Motion

B. Buitenhuys motioned and P. Downs seconded the motion to issue a Negative III determination. The motion passed unanimously, (5-0).

Request for Determination of Applicability

Darpan Patel

114 Photine Drive

Lowell, MA 01854

Project Location: 114 Photine Dr 01854

Lowell, MA 0185A Request for Determination of Applicability has been filed by Darpan C. Patel to remove four (4) trees at 114 Photine Drive. The trees are within the 100-ft. Buffer Zone to the wetlands.

On Behalf:

Darpankumar Patel, the Applicant

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

L. Varnum: I visited the property and spoke with Mr. Patel. He has had several trees die and fall. I believe it's not a friendly location for white pine. They are not really a wetland tree. He is concerned these 50-60-ft. trees will fall on the house if they follow the pattern the other ones have followed.

D. Patel: The four trees are within 15-20-ft. of my house. Those trees are near my family room where we spend most of our time. I have concerns about my kids and parents. The other day they were playing outside and one of the limbs fell down. I would take down trees and would be happy to plant four more shrubs and can plant two fruit trees. I would like to plant one peach tree and one apple tree.

L. Varnum: That sounds like a good trade off. I love fruit trees. Mr. Patel would like to plant not where trees are coming down, would like to put extra shrubs in the front of his house. I thought the application was reasonable. Two of the trees are already dead. The others are very tall and have few limbs on the bottom – they may be top-heavy. I think that's the concern Mr. Patel has.

P. Downs: This seems reasonable, especially where he is offering to replant some trees and shrubs.

B. Buitenhuys: I appreciate that even though these plants are dead and dying, you are offering to replant. I would request that your proposal match what you state to us. I would like to see each tree replaced, since that's what was originally proposed.

D. Patel: Two of the trees are already dead. The other four have limbs on the top.

B. Buitenhuys: I have no problem taking down the trees. I would request that all the trees are replaced.

L. Varnum: Perhaps four trees instead of two. Makes sense to have two apple trees to pollinate each other. We seem to be in agreement that Mr. Patel is going to replace trees with new plantings. We want to see trees have lived through the next season. Mr. Patel will replace the two dead trees with four shrubs, and will replace the other four trees in kind.

Motion

B. Buitenhuis motioned and P. Downs seconded the motion to issue a Negative III determination. The motion passed unanimously, (5-0).

Enforcement Order

Lori and Donald Provencher
182 Eighteenth Street
Lowell, MA 01850

Violation Location: 182 Eighteenth Street 01850

Tree cutting within the 100-ft Buffer Zone to Bordering Vegetated Wetlands without permission from the Lowell Conservation Commission.

On Behalf:

None

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

L. Varnum: Surprised at this Enforcement Order. Looked at the backyard and did not see new work occurring. I believe whatever trees were cut were not cut recently. This is perhaps not an EO we want to ratify. Neat backyard, easy to see what's going on back there. Neatly kept. Not a lot of trees left on the actual property.

B. Buitenhuis: I am fine moving forward without ratifying.

Motion

None

OTHER BUSINESS

Community Preservation Committee Designee

Vote to designate a representative to the City's Community Preservation Committee.

L. Varnum: If we don't appoint someone, someone not on the Commission would be appointed. We do have at least one volunteer. They meet six times a year. Not sure when exactly they would meet.

B. Buitenhuis: Looking to get a bit more involved. I do have some experience with construction of affordable housing projects. I'm looking forward to working with others from different boards.

P. Downs motioned and W. Standish seconded the motion to nominate Commissioner Buitenhuis to the Community Preservation Committee. The motion passed unanimously, (5-0).

Minutes

May 27, 2020
June 10, 2020

W. Standish motioned and K. Dillon seconded the motion to approve the May 27, 2020 and June 10, 2020 meeting minutes. The motion passed unanimously, (5-0).

ADJOURNMENT

P. Downs motioned and B. Buitenhuis seconded the motion to adjourn the meeting. The motion passed unanimously, (5-0). The time was 7:56PM.